

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



September 25, 1998

ALL-COUNTY LETTER 98-76

TO: ALL-COUNTY WELFARE DIRECTORS

**REASON FOR THIS TRANSMITTAL**

- ☐ State Law Change
- ☒ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

SUBJECT: AGRICULTURE RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998 (PUBLIC LAW 105-185, TITLE V) : FOOD STAMP ELIGIBILITY PROVISIONS  
ADDITIONAL CALIFORNIA FOOD ASSISTANCE PROGRAM (CFAP) INFORMATION  
CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI) INFORMATION

REFERENCE: ACL 98-66

On June 23, 1998, the President signed Public Law 105-185, the Agricultural Research, Extension and Education Reform Act of 1998 (AREERA). The purpose of this letter is to provide County Welfare Departments (CWDs) with instructions for implementing the food stamp eligibility provisions of the AREERA. In addition, we are providing further information on CFAP work requirements for migrant farmworker and seasonal farmworker households, and CFAP reporting requirements. We are also providing a brief description of the CAPI.

**AREERA FOOD STAMP ELIGIBILITY PROVISIONS**

AREERA restores federal food stamp eligibility for certain noncitizens who lost eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. Qualified noncitizens, (as defined in Section 431 of PRWORA) who meet one of the following criteria may be eligible for the federal program effective November 1, 1998:

- **Restoration of Eligibility for Disabled Noncitizens;** Restores food stamp eligibility to blind or disabled noncitizens who were legally residing in the United States (U.S.) on August 22, 1996.
- **Restoration of Eligibility for Elderly Noncitizens;** Restores food stamp eligibility for elderly noncitizens who were at least 65 years of age on August 22, 1996 and who were legally residing in the U. S. on that date.

- **Restoration of Eligibility for Noncitizen Children;** Restores food stamp eligibility for children under 18 years of age who were legally residing in the U.S. on August 22, 1996.

In addition, AREERA provides for:

- **Extension of the Eligibility Period for Refugees, Asylees and Others;** Extends food stamp eligibility for refugees, asylees, Cuban/Haitian entrants, persons granted withholding of deportation and Amerasians from five to seven years.

The following noncitizens are eligible for an indefinite period of time even if they are not qualified noncitizens:

- **Hmong/Laotian Tribal Members;** Provides food stamp eligibility for Hmong or Highland Laotian tribal members who aided U.S. personnel during the Vietnam war and who are lawfully residing in the U.S., and their spouses, widows and unmarried dependent children.
- **Cross Border Native Americans;** Restores food stamp eligibility for cross-border Native Americans. This provision was intended to cover Native Americans who are entitled to cross the United States border into Canada or Mexico.

**NOTE:** The attached “Federal Food Stamp Eligibility Guidelines,” as adapted from a chart provided by the United States Department of Agriculture, details the revised federal eligibility requirements for participation in the food stamp program for eligible noncitizens.

### **IMPLEMENTATION REQUIREMENTS**

The legal noncitizen provisions in AREERA are effective November 1, 1998. The following implementation instructions apply:

- Legal noncitizens applying in October 1998 who are not eligible until November, shall be certified effective November 1, 1998 in accordance with M.S. 63-503.14, provided necessary verification is submitted.
- Current CFAP recipients whose eligibility for the federal program is being reinstated shall be claimed as federal participants effective November 1, 1998.
- Current CFAP recipients shall be converted to the federal program without the need to reapply if: 1) there is an application on file, 2) there is sufficient information to determine

eligibility and benefits, and 3) the household's certification period extends beyond November 1, 1998.

- Members of recipient households who become eligible for the federal program November 1, 1998 who are not currently receiving CFAP benefits, shall be added to existing cases at household request, at recertification, or when the case is next reviewed, whichever occurs first. These individuals may be entitled to restored benefits back to November 1, 1998.
- Counties should provide general information to potential populations impacted by AREERA provisions as soon as administratively possible.

Please refer to ACL 98-66 for examples of the budgeting process for households effected by the federal law change.

### **QUALITY CONTROL PROVISIONS**

For those quality control cases that must be reviewed against the new provisions, variances resulting from the implementation shall be excluded for 120 days from the required implementation date. Quality control cases reviewed against these provisions after the 120 day exclusion period will not be held harmless from any variances.

### **CFAP PROVISIONS - MIGRANT/SEASONAL FARMWORKERS**

The expanded CFAP for legal noncitizens was implemented on September 1, 1998 and the statutes provides the California Department of Social Services (CDSS) with the authority to implement the provisions of the CFAP via ACL. As referenced in ACL 98-66, CDSS was directed to consult with the counties to develop guidelines for determining eligibility for the migrant and seasonal farmworker population. As previously noted in ACL 98-66, migrant and seasonal farmworker households who do not receive CalWORKs, or who do not meet the requirement to be employed in subsidized or unsubsidized employment for the number of hours set forth in the county's welfare to work plan, or who are not exempt based on advanced age or disability per the CalWORKs definitions, may be eligible for benefits effective November 1, 1998. As a result of consultation with counties at the August 1998 CWDA food stamp Technical Review Team (TRT) meeting and subsequent discussions, migrant and seasonal farmworkers may be eligible for benefits if they meet one of the following provisions:

- **They have been determined eligible for unemployment compensation.**
- **Their county of residence determines that the appropriate amount of migrant or seasonal farm work is not available.**

### **CFAP - REPORTING REQUIREMENTS**

One of the requirements stipulated by the California State Legislature with the implementation of the extended CFAP was that the CDSS would provide information on the implementation of the CFAP to the appropriate Senate and Assembly budget sub-committees during the spring 1999 sub-committee hearings. The information shall include, but not be limited to, the estimated number of persons receiving CFAP benefits, the number of CFAP recipients also participating in CalWORKS, the number of CFAP recipients in nonsubsidized and subsidized employment, and the range of hours required by each county for program administration.

The Food Stamp Bureau will be working with the Contracts and Fiscal Analysis Bureau and Data Systems and Survey Design Bureau to determine the most effective method to capture the above information. CDSS will also be meeting with CWDs within the next few weeks to do this. It is important that all counties document and record the above information for reporting at a later date. We will be providing counties with updated information as it becomes available.

### **CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)**

Assembly Bill 2779 (Chapter 329, Statutes of 1998), signed into law by the Governor established a program to provide assistance to certain aged, blind and disabled legal noncitizens. Certain noncitizens are expected to lose their Supplemental Security Income/State Supplementary payment (SSI/SSP) benefits solely due to their immigrant status under PRWORA effective September 30, 1998. However, there is federal legislation pending that will extend SSI/SSP benefits to many of these noncitizens. Any person whose SSI/SSP benefits are discontinued solely due to his/her immigrant status, and who is not reinstated to SSI/SSP will be eligible for the new state funded CAPI. Currently, SSI recipients in California are not eligible for food stamps. However, we anticipate that some of the individuals who are losing their federal SSI benefits will become eligible for either CFAP or federal food stamps. Most of the former SSI recipients who become eligible for food stamps will be eligible for the federal food stamp program beginning on November 1, 1998, with the implementation of AREERA provisions which reinstate federal Food Stamp eligibility for certain aged and disabled noncitizens.

### **REVISED FOOD STAMP REGULATIONS**

CDSS is currently revising existing food stamp regulations which are impacted by both the federal and state changes to eligibility requirements for qualified legal noncitizens. Draft regulations will be forwarded to counties within the next few weeks.

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If you have any questions or require further program information, please contact Alan Rowe of the Food Stamp Bureau, Policy Implementation Unit, at (916) 653-5208. For questions regarding the CAPI, contact the Adult Programs Management Bureau at (916) 229-4000. .

***Original Document Signed By  
Charleen Meeks on 9/25/98 for***

BRUCE WAGSTAFF

Deputy Director

Welfare to Work Division

Attachment

## **Federal Food Stamp Eligibility Guidelines**

- A person must be a U.S. citizen or an eligible noncitizen to qualify.
- Except as provided in the exception area below, a noncitizen must be both a qualified noncitizen and meet the special food stamp criteria to be eligible.

### **Qualified Noncitizen (Section 431 PRWORA)**

- Lawfully admitted for permanent residence (LPR)
- Paroled under Section 212(d)(5) of INA for at least one year
- Granted conditional entry under 203(a)(7) in effect prior to 4/1/80
- Granted asylum under Section 208 of INA
- Refugee admitted under Section 207 of INA
- Deportation withheld under 243(h) or 241(b)(3) of INA
- Cuban or Haitian entrant as defined in 501(e) of Refugee Education Assistance Act of 1980
- A battered spouse, battered child, or parent or child of a battered person with a petition pending under 204(a)(1)(A) or (B) or 244(a)(3) of INA

### **Food Stamp Criteria (Section 402 PRWORA)**

**The following noncitizens are only eligible for 7 years\* after admitted or granted status:**

- Amerasian immigrant under 584 of Foreign Operations, Export financing and Related Program Appropriations Act
- Asylees granted asylum under 208 of INA
- Refugee admitted under 207 of INA
- Deportation withheld under 243(h) or 241(b)(3) of INA
- Cuban or Haitian under 501(e) of Refugee Education Assistance Act of 1980

**The following are eligible indefinitely:**

- LPR who can be credited with 40 quarters of work
- Military connection (veteran, active duty, spouse and children)
- Lawfully in U.S. on 8/22/96 and under 18\*
- Lawfully in U.S. on 8/22/96 and disabled or blind\*
- Lawfully in U.S. and 65 or older on 8/22/96\*

### **Exceptions (Section 402 PRWORA)**

**The following noncitizens may be eligible even if they are not qualified noncitizens as specified under Section 431 of PRWORA, and for an indefinite period of time.**

- Certain Hmong or Highland Laotian (and spouse and children). Many are admitted as refugees.\*
- American Indians born in Canada to which Section 289 of INA applies, and member of Indian tribe as defined in Section 4(e) of Indian Self-Determination and Education Assistance Act. (Cross-border Indians.)\*

NOTE: A qualified noncitizen may have both time limited and indefinite food stamp criteria. For example, a refugee admitted under Section 207 has a time limit of 7 years after he/she was admitted or granted status. If that person also has a military connection, then the eligibility is indefinite.

\*Effective 11/1/98